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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

BRIDGEFIELD CASUALTY
INSURANCE COMPANY

: DOCKET NO. 06-718

VS.

: JUDGE TRIMBLE

DR. FAYEZ SHAMIEH, ET AL

: MAGISTRATE JUDGE HILL

MEMORANDUM RULING

Before the Court is a "Motion to Abstain and Dismiss or, in the Alternative, to Abstain and Stay this Case" (doc. #9) filed by defendants, Fayez K. Shamieh, MD, PMC, Surgicare Outpatient Center of Lake Charles, Inc. d/b/a Surgicare of Lake Charles, Frank W. Lopez, M.D., Lynn E. Foret, M.D. APMC, Advance Medical & Diagnostic Center, and Southwest Louisiana Hospital Association, d/b/a Lake Charles Memorial Hospital, wherein the movers seek to have this Court abstain and dismiss the claims in this proceeding or, alternatively, to abstain and stay the claims in this suit.

Defendants argue that the parties filing actions like this in federal court are trying to avoid any progress in a Louisiana state court proposed plaintiff and defendant class action entitled *Clark A. Gunderson, M.D. (a Medical Corp.), et al v. F.A. Richard & Associates, Inc., et al*¹. Defendants also argue that all of the issues raised in the instant suit are addressed in *Shamieh v. American Interstate Ins. Co.*,² Furthermore, some of the pertinent questions of law herein, are also the subject of an appeal being taken to the Fifth Circuit in the case of *Liberty Mutual Ins. Co. V. Gunderson, et al*.³ Defendants

¹ Docket No. 2004-2417, 14th JDC, Calcasieu Parish, Louisiana.

² Docket No. 2006-CV- 0242.

³ Civil Action No. 04-2405.

have also filed workers' compensation claims in the Louisiana Office of Workers' Compensation over issues raised in the instant Complaint.

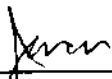
The Fifth Circuit defines parallel actions as those involving the same parties and the same issues.⁴

All of the Defendants in the instant case are Plaintiffs in the *Shamieh* litigation. The plaintiff, Bridgefield Casualty Insurance Company is not a party to the *Shamieh* case, nor is it at this time a party to the *Gunderson* litigation – even though it is purportedly a member of the respective putative classes in *Gunderson*. Also, the *Gunderson* litigation does not contain a breach of contract claim as has been asserted in the instant lawsuit. Thus, the issues and the parties are not parallel. While the Court is not inclined to abstain and dismiss the instant suit because it does not parallel any state court action, we are inclined to stay the suit pending a ruling from the Fifth Circuit in *Liberty Mutual, supra*.

CONCLUSION

For the reasons set forth above, the motion to abstain and dismiss will be denied and the motion to stay the case will be granted.

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 31st day of August, 2006.



JAMES T. TRIMBLE, JR.
UNITED STATES DISTRICT JUDGE

⁴ See, e.g., *American Guarantee & Liability Ins. Co. v. ANCO Insulations, Inc.*, 408 F.3d 248 (5th Cir. 2005); *Diamond Offshore Co. v. A&B Builders, Inc.*, 302 F.3d 531 (5th Cir. 2002); *Republicbank Dallas National Association v. McIntosh*, 828 F.2d 1120 (5th Cir. 1987); *Hartford Acc. & Indem. v. Costa Lines Cargo Serv.*, 903 F.2d 352 (5th Cir. 1990); *PPG Industries, Inc. v. Continental Oil Co.*, 478 F.2d 674, 682 (5th Cir. 1973); *Doerle's Quarterboats, Inc. v. Been Weeks, Co.*, 1995 WL 747470 (E.D. La.).